Secrt. 11-27—36,056—30-10-37.

Home (1938) Department.

118 SERIES.

G.O No. 1803

DATED 2-6-1938

[Despatch Abstract.]

Convict

Commutation of sentence - (C.A.No.650/37 on the file of the High Court), Bellary - S.C.No.22/37 - Bukkittu Sangappa - Transportation for life reduced to five years Rigorous Imprisonment.

2. It was contended for the defence that your Humble Petitioner did not commit the offence that Basamma died of the Scorpion bite, that the evidence of P.W.4 shows that she was not killed by your Petitioner, that he did not make any confession and that in any event the confession was inadmissible in evidence. It was also argued that even the assuming the prosecution case to be true he was not guilty of the offence of murder as there was sudden and grave provocation. The Learned Sessions Judge convicted your Humble Petitioner on the alleged confession though he was of opinion that it was not regularly recorded. In sentencing your petitioner to transportation for life, the Sessions Judge observed that there was grave provocation for your Petitioner to commit the offence , though not sudden.

3. Your Humble Petitioner preferred an appeal to the High Court against that conviction and sentence. The High Court confirmed the conviction and sentence on circumstantial evidence while not relying on the confession. But His Lorship Justice Lakshmana Rao held that this a fit case for reasonably moving the Government for remission of sentence,having regard to his youth and special circumstances of this case.

4. Your Humble Petitioner submits that on the prosecution case, there was a grave provocation for him to commit the offence. No provocation would

± 95

17312 D
16/5

BEFORE THE HONOURABLE THE MINISTER FOR COURTS

AND PRISONS GOVERNMENT OF MADRAS.

FORT. ST. George.

The Humble Petition of Bukkittu Sangappa,

son of Basappa of Ethinabudihal,

Bellary Taluk, Bellary Dt.

Under Section 401 Crl.P.C.

1. That your Humble Petitioner was convicted by the Sessions Judge of Bellary under Sec. 302 I.P.C. for having murdered his wife on 16-7-1937 at Ethinabudihal village and sentenced him to transporation for life The prosecution case was briefly as follows Your Humble Petitioner suspected that his wife was intimate with P.W.6 in the case, that he saw several times P.W.6 visiting his house that/a day prior to the occurance P.W.6 was seeing loitering near the house of your Petitioner. That night when questioned the wife admitted her intimacy with P.W.6 and he killed ~~an hour or two thereafter~~ her sometime later in the night. In the early hours of the morning he went to P.W.4 and told him that his wife was stung by a scorpion and requested for his help. Then immediately a native doctor was sent for, who found her dead On the 16th when P.Ws. 3 and 4 went to the village and questioned him, he confessed that he killed her being unable to bear the shock of the discovery that his wife was adulterous.

be greater than his discovery of his wife's illicit intimacy with another. The Learned Sessions Judge also found him to be a nervous young man . It is further submitted that this is not a case where the offender should be given transportation for life, the offence having been committed owing to a grave provocation.

In these circumstances your Humble Petitioner prays that the Hon'ble Minister may be pleased to kindly remit the sentence.

P. Chandra Reddy
Advocate for Petr.
14 - 5 - 1938

4

Before the Hon'ble the Minister
for Courts and Prisons, Government
of Madras. Fort St. George.

The Humble Petition of Bukkittu
Sangappa of Chinabudikal.
Bellary Dt

Mr.P.Chandra Reddy,
Advocate for Petr.

5 C.F. 80.

Jail DEPARTMENT.

Received ..... 19 — 24 MAY 1938 — ASSISTANT SECRETARY TO GOVT. HOME DEPARTMENT

Registered 18242 D/1 ..... 19 .

Subject.

Jails - ~~Central Jails~~, The Penitentiary, Madras -
Convict No. 5136, Bakkittu Sangappa -
Petition for remission of sentence -

ENCLOSURES.
.....
.....
are copies.....

No. 72/S4/38.

Station Mount Road, Madras. *Dated the* 23rd M a y 1938.

From (Name) Lieut-Col.S.C.Contractor, M.B., I.M.S.,
(Designation) Inspector-General of Prisons.

To The Secretary to the Government of Madras,
Home Department.

Sir

Under Rule 448(2) Jail Manual, I submit, herewith, 22-3Cf for orders, a petition from the abovementioned convict for remission of sentence together with the following papers.-

(1). Nominal roll. 4 Cf
(2). Copy of judgment. 5-13 Cf

Personal Assistant
for Inspector-General of Prisons.

vss.23/5.

To,

His Excellency the Governor in council
Fort Saint George. Madras

Your Excellency,

I, B. Sangeppa c:no 5136 undergoing imprisonment for life in the Madras Penitentiary under § 302. I.P.C most respectfully beg leave to submit this petition for favour of his Excellencies consideration and order

I am a young man of 23 and was living with my wife quite happily. As ill-luck would have it, she developed illegal intimacy with one B. Malleri. I suspected her conduct and questioned her on the ave of occurrence as to her charity. To my utter surprise and dismay she admitted having had illegal connection with him I could not find a justification for his act of a I became convulsive and mad and inflicted self punishments on me. Even though she witnessed all my pains and agitations she did not express a word of regret or a

a rectification of her conduct in the future at least.
On the other hand She to cast a defying and contemptuous
look on me and went and laid herself on her bed.
In the meanwhile my agonies were increasing and
in my madness of rage I did not know what I did
except the result was her death. which I swear to
your excellency that I never contemplated for a
single minute. Not a day after this has ever passed
without my regretting the deed and daily I am
praying god to forgive me

Under the circumstances I appeal
to your excellency to be so good as to grant me mercy
or at least some reduction in the original sentence
as suggested by the appellate judge in the concluding
paragraph of his judgement - For which act of
kindness I shall ever feel grateful.

I have to remain,
your excellency,
your most obedient servant,

Left thumb impression of.

(SD) Sangappa
C. No. 5136.

Representation
Madras
dt 17.5.38

Read over to the Convict explained to him in Telugu
acknowledged by him to be Correct & his left
thumb impression taken in my presence

Superintendent of Prisons
Cuddapah 19.5.38

Jndl. (Jail-II)-27—12,560—9-4-38.

FORM No. 52.

(See Rule 879, Jail Manual.)

Nominal Roll of Male * Convict No. † A 5136, Name Buk Kittu Sengappa, Residence (Village, Taluk and District) Ethinabudihal, Bellary Caste H. Kuba, Present Age 28 years, Occupation Cultivation & Coolie

Section and Code under which imprisoned.	Original sentence of order and date.	Adjudicating Court and Calendar number of case.	Unexpired term of sentence after deducting remission earned. Y.	M.	Present state of health and fitness to undertake a journey.‡	Result of appeal (if any).	Conduct in Jail.	Remarks.
302 Ipc	Trn f Life 22.9.37	Sessions Judge Bellary Sc 22/37	19	3 4	I H	Dismissed	Good	Remission earned up to 28 of preceding month days. Fixed Sich. class - C Education C

Strike out and add "Female" when necessary.

After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

NOTE.—Personal and descriptive marks are to be given on the reverse when (1) rolls accompany prisoners transferred, (2) police assistance is sought for the recapture of an escaped prisoner.

Penitentiary Hadagalli JAIL,
15.5 1938.

21.9.57
15.5.38
2 4 19
28
4 3 19

Superintendent.

Judl. (Jail-II)-27—12,560—9-4-38.

~~47~~

FORM No. 52.

(See Rule 879, Jail Manual.)

Nominal Roll of Male * Convict No. † A 5136, Name Buk Kittu Sangappa, Residence (Village, Taluk and District) Ethinabudihal, Bellary Caste H. Kuja, Present Age 28 years, Occupation Cultivation & Coolie

Section and Code under which imprisoned.	Original sentence of order and date.	Adjudicating Court and Calendar number of case.	Unexpired term of sentence after deducting remission earned. Y.	M.	D.	Present state of health and fitness to undertake a journey.‡	Result of appeal (if any).	Conduct in Jail.	Remarks.
302 Ipc	Trn fr Life 22.9.37	Sessions Judge Bellary Sc 22/37	19	3	4	I H	Dismissed	Good	Remission earned up to of preceding month 28 days. Mixed Dieh. class - C Education C.

Strike out and add "Female" when necessary.

After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No. 3742 B-2.

When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

NOTE.—Personal and descriptive marks are to be given on the reverse when (1) rolls accompany prisoners transferred, (2) police assistance is sought for the recapture of an escaped prisoner.

Penitentiary Hadagalli Jail,
15.5 1938.

21.9.57
15.5.38
24.19
28
4 3 19

Superintendent.

Home Dept. 98

C.No. 1512 D From Mr.P.Chandra Reddi, Advocate,

d/ 14-5-38

Commutation of sentence- B-Sangappa- Petition on behalf of..

***

The Advocate, on behalf of the accused, has submitted a petition for the remission of the sentence of transportation for life passed on the convict cited above. He was convicted of the murder of his wife Basamma. The High Court in confirming the sentence of transportation for life observed as follows:---

"But the appellant is a youth of 23 years and in the circumstances of the case he might reasonably move the Provincial Govt under section 401 of the Code of Criminal Procedure."

The Counsel for the accused requests that the sentence may be remitted.

2. Generally in cases recommended for clemency by Courts, the Govt reduce the sentence, taking into account the circumstances of each case(viz, the motive for the crime, the nature of the attendant circumstances and the age of the accused). In the present case the accused is stated to be a youth of 23 years.

3. The request of the Counsel that the sentence that remains unexpired may be remitted. It is for orders whether the sentence passed on the accused will be reduced and if so to what period.

Rai 29/5. 1938

There seems to be no case for remission of sentence. It appears from the Govt

10/

12

The convict murdered his wife when she was sleeping with him. There was no sudden provocation

2/2 The accused admitted that he committed adultery with another and had been entrusted of the stock of his dis[illegible] report

The Sessions Judge has also stated that the accd did kill his wife under one of the most severe forms of provocation that can exist. There was grave & sudden provocation. The accd is a young man of 23 years & is said to be a highly nervous man. In view of the recent

of the High Ct, this is an order where the sentence may be reduced to 6 years RI

RR 26/5

S

may be communicated to accd

RR 26/5

Mr ASP Mrs. KRR 26/5

HE E. 28.5.38.

HOME SECRETARY * GOVT OF MADRAS * 29 MAY 1938

SECRETARY TO GOVERNMENT

MAY 1938

DEPARTMENT

Man. Form 16.]

Home Dept. I-16—400—23-12-36.

PETITION FROM CONVICT

HOME DEPARTMENT,

[C. No.18242D.] From the Inspector-General of Prisons, No.72/54/38 dated 23-5-1938, submitting an application for remission of sentence from Convict No. 5136 confined in the Penitentiary Jail, Madras.

FOR ORDERS.

Name of the Convict :— Bukkittu Sangappa

Offence of which convicted :— 302 I.P.C. (Murder)

Adjudicating Court :— Court of Session, Bellary Division.

Sentence imposed :— Transportation for life.

Date of sentence :— 22-9-37

Appellate Court :— High Court.

Result of Appeal :— Dismissal.

Previous Convictions :— Nil.

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AP.

Refer A.S' query at page 1 ante

A petition on behalf of the convict has been received from his Counsel and dealt with in the linked file. It has been ordered that the sentence should be reduced to 5 years R.S. No action is therefore called for on the petition in the cf. as the request of the convict is for at least a reduction of the sentence. It seems enough if the J.G's letter is read in the order and the papers added to the linked file.

17312D

12 nf linked file

13 cf

1 cf

linked file

added to 17312D

AP. 8/1/16

Yes 8/1/16

1B 11

Draft Submitted.

SB.
1/6.

1/6

C.F.17.

DRAFT FOR APPROVAL.

Home Department.

	Date.	Initials.
When received for fair copying ..	2/6	
When copied ..		
When examined ..		
When signed ..		
When despatched.		

SUBJECT:—

Convict

Commutation of sentence-~~R.I. for~~

(C.A.No. 630/37 on the file of the High Court) Bellary S.C.No. 22/37

~~Ex~~ Bakkittu Sangappa

Transportation for life reduced to five years R.

READ AGAIN _____, dated _____

" " _____ " _____ 19____.

READ *ALSO*:—

No. 17312 D. From ~~the~~ Sri. P. Chandra Reddy. Counsel for Convict Dy. Registrar, High Court, No. _____, dated 14.5.1938.

" _____ " _____ " _____ " _____ 19____.

Referred to 18242 D " F.G.P. Prisons. " 72/S4/38. " 23.5.1938.

Order / Resolution / Ms. / Rout No. 2803, dated 2/6 1938.

In exercise of the powers conferred by section 55 of the I.P.C and section 402 of the Code of Criminal Procedure, 1898, the ~~Provincial~~ Government of Madras are pleased hereby to commute to R.I. for five years the sentence of transportation for life passed on ~~Convict No 5736~~ Bakkittu Sangappa in Bellary S.C.No. 22 of 1937 and confirmed by the High Court of Judicature at Madras in C.A.No. 630 of 1937 on Convict No 5736, Bakkittu Sangappa Convict in the Penitentiary, Madras

To

The Hon'ble the C.J.(C.S.)
Sessions Judge of Bellary
(in triplicate for communication to the prisoner and Supdt of the Jail in which the prisoner is confined)

D.M. Bellary (in duplicate)
I.O of Prisons
I.O of Police (with O.C.)
Sri. P. Chandra Reddy.
Advocate, Convict (with copy of judgment at A.No.)

Advocates' Assn,
High Court Buildings, Madras.

13 X5

In the Court of Session of the Bellary Division.

The 22nd day of September 1937.

Present :—E. G. BARTER Esquire, I. C. S., Sessions Judge.

SESSION CASE No. 22 OF 1937.

Rex. (vs.) Bukkittu Sangappa.

Preliminary Enquiry No. 6 of 1937, committed by Mr. R. Tirumala Rao Stationary Sub-Magistrate of Bellary, Bellary District.

Assessors.
1. Basavana Gowd, Lingayat.
2. Jadiappa, Banada, Boya.
3. Mareppa, Vellore, Lingayat.
4. Tirukappa, Mydur, Vaisya.

The accused was defended by Mr. T. Narasimhachari, pleader appointed by the Crown.

Offence. ... Murder, under Section 302, I. P. C.

Plea. .... Not guilty.

Opinion of Assessors. .... Guilty.

Finding of Court. ... Guilty.

Sentence. .... Transportation for life.

No.	Name of accused.	Father's name.	Caste or race.	Occupation.	Residence.	Age.
1	Bukkittu Sangappa. 1473	Basappa.	Pakanati Kapu.	Cultivation and Cooly.	Ethina Budihal, Bellary Taluk.	23

DATE OF:—

1.	Occurrence	...	Night of 15—7—1937.
2.	Complaint	...	... 17—7—1937.
3.	Arrest or appearance	...	... 17—7—1937.
4.	Commitment	...	... 9—8—1937.
5.	Receipt of Committal order	...	... 14—8—1937.
6.	Release on bail	...	... .
7.	Commencement of trial	...	... 16—9—1937.
8.	Close of trial	...	... 16—9—1937.

16

JUDGMENT.

The accused, a young man of 23, is charged under Section 302 I. P. C, with the murder of his wife Basamma on the night of 15-7-1937 at their house in Ethinabudihal.

2. The prosecution case is as follows :—The scene of occurrence is shown in the plan, Exhibit E. The accused's house consists of a hall with an open doorway, and an interior room separated by a tatti. It opens into a street running east to west into another street in which is an Iswara temple from which the front of the accused's house can be seen. The deceased, the wife of the accused, had been living alone with him in his house for about two years, they having separated from his (accused's) parents. She was seen alive and well on the evening of Thursday 15-7-1937 by the talayari T. Pennaga (P. W. 1), and a neighbour, Sowcar Basanna (P. W. 5). The next morning she was dead. In the very early hours P. W. 5 was told by accused that she had been bitten by a scorpion and her body was cold. P. W. 5 advised rubbing her with ashes and he brought the accused's parents to the house at 4 or 5 A. M. Hampanna (P. W. 8), a native doctor, was sent for at 5 A. M., as she had been bitten by a scorpion and he found people rubbing her body but on examination discovered she was dead. She was buried that morning, the 16th. During the day there were rumours that she had been beaten to death, of which the talayari, P. W. 1, told the Reddi. As he took no notice P. W. 1 went next morning to Bellary where he found the Karnam, Bhimasena Rao (P. W. 2), at the Taluk Office and was advised to inform the police. He accordingly made a statement, Exhibit A, to the Sub-Inspector informing him of the circumstances and of the existence of a rumour that the cause of death was suspicious. The Circle Inspector, P. W. 4, immediately went to the village, which is seven miles away, taking with him the then Sub-Assistant Surgeon of Bellary and the Taluk Magistrate P. W. 3. They went to the accused's house at 3-30 P. M. and found the accused there alone. Questioned by the Tahsildar he said his wife had died of a scorpion bite and that he had killed the scorpion and thrown it aside. He could not show the exact place and P. Ws. 3 and 4 say that he was trembling during this questioning, which they regard as significant. The accused appears to be a very highly nervous young man and it is not unlikely that he would have trembled with fear, even if he were perfectly innocent, when he found himself being questioned with obvious suspicion by these officers, and no weight can be placed on his apparent demeanour at that time.

3. The accused himself showed the place of burial, a new mound in the burial ground, and the body was exhumed under the orders of P. W. 3. P. Ws. 3 and 4 say that when the face became visible the accused was again questioned there by the Tahsildar and told to tell the truth, and that the accused then fell at the Tahsildar's feet and confessed that he had killed his wife because she was unfaithful and had done so by treading on her throat when she was asleep and throttling her with a rope which he offered to produce. The inquest was held at the burial ground (Exhibit B) and the accused was then taken back to his house where he produced a rope (M. O. I) from a recess in a wall. He was then taken to a temple where the Tahsildar was camping, and there his statement was recorded. The Tahsildar first sent away the Circle Inspector, the Sub-Inspector and other people who had followed them and then took the accused to an inner room where they were alone, administered the usual warnings and recorded his statement as Exhibit D. The statement was made in Canarese and was recorded in Telugu, and was afterwards read to the accused in Canarese.

4. This statement is that the accused suspected that his wife was intimate with B. Mallesi (P. W. 6) and that ten days before, on the Tuesday, he had left early and waited in the temple to watch the house

and then saw P. W. 6 visit his house and stay there for some time. The following Monday he went away and on returning on the Wednesday evening (14th) he saw P. W. 6 on the road talking to his wife, and when they saw him P. W. 6 ran away and his wife went into the house. In the house he questioned his wife and could get no answer. Next day, Thursday, he again watched from the temple and saw P. W. 6 loitering about outside his house, but unable to go in as there were many people there. He questioned his wife again on that day and she then admitted at first that P. W. 6 had raped her on the Wednesday, but that night she admitted that she had been intimate with him. The accused according to the statement was unable to sleep that night through the shock of this discovery and in the early morning he killed her by treading on her throat and strangling her with a rope, and then at dawn told P. W. 5 that she had died of a scorpion bite.

5. P. W. 6 admits that he had been intimate with the deceased for six months, visiting her secretly at her house, that he visited her there on the Tuesday, 10 days before the occurrence and on the Wednesday before the occurrence he was talking to her outside the house and went away when he saw the accused. Karibasappa (P. W. 9), a servant in the Iswara temple, speaks of the accused's coming there about ten days before the occurrence at about 5 A. M. and waiting in the verandah, and still being there when P. W. 9 left at daybreak.

6. Post-mortem examination was held at the burial ground by the Sub-Assistant Surgeon whose evidence is Exhibit F and the certificate and notes Exhibits F(1) and F(2). There was ecchymosis on the front of the neck and chest, the thyroid cartilage was fractured and the left collar bone was torn from its attachment to sternum. These injuries according to the post-mortem officer are consistent with pressure by a foot or a knee and were anti-mortem. Death was due to asphyxia caused by strangulation, presumably connected with these injuries, and the officer is clear that it could not have been due to a scorpion bite. There is no indication in his description of any mark left by the rope which the accused said he used. It is possible that he had killed her with his foot before he used a rope or that the rope was not used forcibly enough to leave visible injuries.

7. The accused denies committing the offence and says that he told the Tahsildar consistently that his wife died of a scorpion bite but that he was beaten and forced to sign the statement. In the lower court he said that it was read over to him in Canarese. In this court he denies that it was read over at all. He is unable to offer any explanation of the injuries.

8. Although the record of the confession shows that usual warnings were properly given, it does not show the accused was given time for consideration. P. W. 3 says that he was given about 15 minutes while P. W. 3 was preparing his papers etc. The inquest report was closed at 5-15 P. M. and P. W. 3 thinks that it would have been 6-45 P. M., by the time the rope was produced and the recording of Exhibit D was finished by 8-30 P. M., which might leave about 15 minutes or so as P. W. 3 says. P. W. 3 does not appear to have realised the importance of giving as long a time as possible to a suspected person to think about his confession after warning. He says that he did not think time was necessary because he knew that the accused had been with him all the time and had not been under the influence of the police, and that it was practically inconvenient to detain the accused in the temple and much safer to hand him over to the police as soon as possible. But naturally he did not wish to do that before he recorded the confession. It would not have been very difficult to make an arrangement for the safe custody of the accused, who does not appear to be a desperate character, for a few hours without handing him over to the police, and although from one point of view the Tahsildar's opinion that time for consideration was unnecessary is quite reasonable, influence of the police is not the only reason for making such delay desirable. It is intended to ensure that a person making a confession has

a fair chance after warning to recover from any influence whatever, other than a spontaneous desire to speak the truth, that might have induced him to make a confession. Influence by the police is not the only influence that operates in that way. In the present case we have a clear example of another kind of influence, for this accused's confession had in the first place been elicited by questioning him when he was placed under a very terrible emotional strain, and possibly under the influence of superstitious fears, by seeing the face of his dead wife brought back from the grave. That may have been quite accidental in this case, and not deliberately intended by the officers, but it is not a method of securing confessions that is approved of by our procedure, and it is not only wrong, but it is likely to aggravate those inherent features of any confession which have so frequently been shown to make a confession, even a voluntary confession taken by itself, not altogether conclusive.

9. In this case there are however features which corroborate the confession to a very great extent, and which indeed afford very strong proof independently of it. In the first place the confession made before the body had been examined described actions which agreed exactly with the injuries found on the body and which could hardly have been known to the accused unless he knew that death was caused very much in the way he described, and the absence of injuries attributed to a rope would not weaken this corroboration.

10. In the second place, quite apart from the confession, the circumstantial evidence is that the accused and the deceased were living alone together and in the absence of any statement to the contrary were presumably together in the house that night when she died, and the accused must at least have known how she met her death, but he immediately gave out a false statement to account for it.

11. The assessors are all of the opinion that the accused is guilty, and acted under provocation. I agree with them and find that the accused killed his wife as stated in the confession and that he did so under one of the most serious forms of provocation that can exist. The fact that his action was delayed and was not the immediate result of the provocation makes the effect of the provocation none the less overwhelming and likely to remove his self-control, but takes it out of the clause "grave and sudden provocation". In spite of the provocation, therefore, the intentional killing was murder. I accordingly convict the accused of an offence under Section 302 and sentence him to transportation for life.

(Signed.) E. G. BARTER,
Sessions Judge.

N. B:—The accused has been committed to the Central Jail, Bellary.

Opinion of the Assessors:—

First and Fourth Assessors:—Guilty, but there was provocation.

Second and Third Assessors:—He killed the deceased, but it was not premeditated. There was serious provocation.

The following witnesses were examined:—

For the prosecution.

1. T. Pennaga.
2. Bhimasena Rao.
3. Balagurunatham Pillai.
4. P. Rama Rao.
5. Sowcar Basanna.
6. B. Mallesi.
7. Madiga Pedda Rama.
8. Hampanna.
9. Karibasappa.

For the defence.

Nil.

15 42

The following exhibits were filed :—

For the prosecution.

A/17—7—1937.	Complaint of Talayari Pennaga (P. W. 1) to the police.
B/17—7—1937.	Inquest report about the body of the deceased Basamma.
C/17—7—1937.	Portion of the panchanama prepared for seizing the rope.
D/17—7—1937.	Confessional statement of the accused recorded by the Taluk Magistrate (P. W. 3).
E/6—8—1937.	Plan of the scene of offence and its surroundings.
F/5—8—1937.	Deposition of Doctor Somalingam in the committing court.
F(1)/18-7-1937.	Post-mortem certificate regarding the body of the deceased Bukkittu Basamma.
F(2)/17-7-1937.	Post-mortem notes do. do.
G/5-8-1937 & 9—8—1937.	Statement made by the accused in the committing court.

For the defence.

Nil.

Material Object produced in evidence.

I. Rope.

(Ild). E. B.
Sessions Judge.

(True copy).

Ranga Rao
Sheristadar. 30/9/37

No. of words 2497 Charges Rs. 3—12—0.

30/9

To

The Registrar,
High Court,
Madras

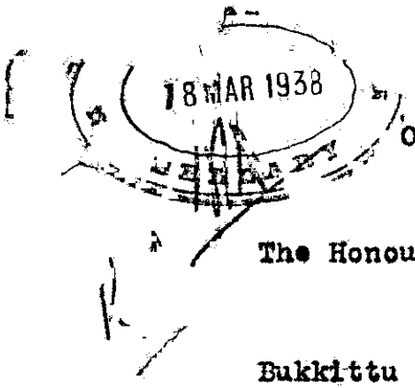
Dis. 5049/3079.

5136

1473

21 9.57

n. 1473.



THE HIGH

Wednesday, the sixteenth

One thousand nine hundred and thirty eight.

16

Present:-

The Honourable Mr.Justice Lakshmana Rao.

Criminal Appeal No.630 of 1937.

Bukkittu Sangappa. . . . . Appellant.(Accused.)

(Prisoner.)

Appeal against the Order of the Court of Session of the Bellary Division in Case No.22 of the Calendar for 1937.

This Appeal coming on for hearing, upon perusing the Petition of Appeal and the record of the evidence and proceedings before the Court of Session and upon hearing the arguments of Mr.P.Chandra Reddi and Mr.R. Ramalinga Reddy, Advocates for the Appellant and of the Public Prosecutor on behalf of the Crown, the Court delivered the following

J U D G M E N T:- The appellant has been convicted of the murder of his wife Basamma and sentenced to transportation for life.

The appellant and the deceased were living by themselves in a house adjoining P.W.5's house at Ethinabudihal and P.W.1 the talayari saw the deceased in front of her house on the evening of the 15th of July 1937. P.W.5 saw her in the house about 9 P.M. that night and it was not disputed that before dawn on 16th July 1937 the appellant took P.W.5 to his house saying that the deceased had been bitten by a scorpion and was cold. The deceased was lying in the room and P.W.5 suggested that ashes might be rubbed. The parents of the appellant were fetched from their house and a native Physicial was brought. He found Basamma dead and the corpse was buried. The talayari

heard a rumour that the deceased was beaten to death and he informed the Village Munsif. The latter took no notice but the rumour was persistent and P.W.1 reported the matter to the police at Bellary on the 17th July 1937. The Circle Inspector P.W.4 went to the Village with P.W.3 the Taluk Magistrate and the Sub Assistant Surgeon and the appellant was found in his house. The Magistrate questioned the appe lant about the deceased and he stated that she died of scorpion bite. He also added that he killed and threw the scorpion aside and when asked to show the place he began to tremble. He was then taken to the burial ground and the corpse was exhumed. The thyroid and collar bone were fractured and death was due to asphyxia. The fracture were due to application of pressure to the neck and chest and the evidence shows that there was intimacy between P.W.6 and the deceased. The appellant has evidently fed up with his wife and independent -ly of his confession to the Taluk Magistrate which was recorded without sufficient time being given for reflection the conclusion is irresistible that the appellant murdered his wife. The conviction is therefore right and the sentence is the minimum prescribed by law.

The conviction and sentence are accordingly confirmed and the appeal is dismissed. But the appellant is a youth of 23 years and in the circumstances of the case he might reasonably move the Provincial Government under Section 401 of the Code of Criminal Procedure.

(Signed) B.C.Sankara Narayana,
Deputy Registrar, App.Side.
(True Copy)

Sub Assistant Registrar,
Appellate Side.

To (1) The Sessions Judge of the Bellary in duplicate for communication to the prisoner (with records.)
(2) The District Magistrate of Bellary through the Sessions Judge.
(3) The Inspector General of Police, Madras.
(4) The Public Prosecutor, Madras.
(5) The Superintendent, Central Jail, Bellary.

C.R.

Dated 16th March 1938.

No. 1473.

Appeal dismissed
Communicated.

19.3.38

JUDGMENT.

Criminal Appeal No.630 of 1937.

Dismissing the appeal preferred against the judgment of the Court of Session of the Bellary Division in Sessions Case No.22 of 1937.

182

Dated 16th March 1938.

Lt Thumb
Whipgeon
No. 1473.

Appeal dismissed
Communicated.

1473
21-4-38

19-3-38

J U D G M E N T.

Criminal Appeal No.630 of 1937.

Dismissing the appeal

In the Court of Session of the Bellary Division.

The 22nd day of September 1937.

Present:—E. G. BARTER Esquire, I. C. S., Sessions Judge.

SESSION CASE. No. 22 OF 1937.

Rex. (vs.) Bukkittu Sangappa.

Preliminary Enquiry No. 6 of 1937, committed by Mr. R. Tirumala Rao, Stationary Sub-Magistrate of Bellary, Bellary District.

Assessors.
1. Basavana Gowd, Lingayat.
2. Jadiappa, Banada, Boya.
3. Mareppa, Vellore, Lingayat.
4. Tirukappa, Mydur, Vaisya.

The accused was defended by Mr. T. Narasimhachari, pleader appointed by the Crown.

Offence. ... Murder, under Section 302, I. P. C.

Plea. .... Not guilty.

Opinion of Assessors. .... Guilty.

Finding of Court. ... Guilty.

Sentence. .... Transportation for life.

No.	Name of accused.	Father's name.	Caste or race.	Occupation.	Residence.	Age.
1	Bukkittu Sangappa.	Basappa.	Pakanati Kapu.	Cultivation and Cooly.	Ethina Budihal, Bellary Taluk.	23

DATE OF:-

1.	Occurrence	...	Night of 15—7—1937.
2.	Complaint	...	... 17—7—1937.
3.	Arrest or appearance	...	... 17—7—1937.
4.	Commitment	...	... 9—8—1937.
5.	Receipt of Committal order	...	... 14—8—1937.
6.	Release on bail	...	... .
7.	Commencement of trial	...	... 16—9—1937.
8.	Close of trial	...	... 16—9—1937.

JUDGMENT.

The accused, a young man of 23, is charged under Section 302 I. P. C, with the murder of his wife Basamma on the night of 15-7-1937 at their house in Ethinabudihal.

2. The prosecution case is as follows :—The scene of occurrence is shown in the plan, Exhibit E. The accused's house consists of a hall with an open doorway, and an interior room separated by a tatti. It opens into a street running east to west into another street in which is an Iswara temple from which the front of the accused's house can be seen. The deceased, the wife of the accused, had been living alone with him in his house for about two years, they having separated from his (accused's) parents. She was seen alive and well on the evening of Thursday 15-7-1937 by the talayari T. Pennaga (P. W. 1), and a neighbour, Sowcar Basanna (P. W. 5). The next morning she was dead. In the very early hours P. W. 5 was told by accused that she had been bitten by a scorpion and her body was cold. P. W. 5 advised rubbing her with ashes and he brought the accused's parents to the house at 4 or 5 A. M. Hampanna (P. W. 8), a native doctor, was sent for at 5 A. M., as she had been bitten by a scorpion and he found people rubbing her body but on examination discovered she was dead. She was buried that morning, the 16th. During the day there were rumours that she had been beaten to death, of which the talayari, P. W. 1, told the Reddi. As he took no notice P. W. 1 went next morning to Bellary where he found the Karnam, Bhimasena Rao (P. W. 2), at the Taluk Office and was advised to inform the police. He accordingly made a statement, Exhibit A, to the Sub-Inspector informing him of the circumstances and of the existence of a rumour that the cause of death was suspicious. The Circle Inspector, P. W. 4, immediately went to the village, which is seven miles away, taking with him the then Sub-Assistant Surgeon of Bellary and the Taluk Magistrate, P. W. 3. They went to the accused's house at 3-30 P. M. and found the accused there alone. Questioned by the Tahsildar he said his wife had died of a scorpion bite and that he had killed the scorpion and thrown it aside. He could not show the exact place and P. Ws. 3 and 4 say that he was trembling during this questioning, which they regard as significant. The accused appears to be a very highly nervous young man and it is not unlikely that he would have trembled with fear, even if he were perfectly innocent, when he found himself being questioned with obvious suspicion by these officers, and no weight can be placed on his apparent demeanour at that time.

3. The accused himself showed the place of burial, a new mound in the burial ground, and the body was exhumed under the orders of P. W. 3. P. Ws. 3 and 4 say that when the face became visible the accused was again questioned there by the Tahsildar and told to tell the truth, and that the accused then fell at the Tahsildar's feet and confessed that he had killed his wife because she was unfaithful and had done so by treading on her throat when she was asleep and throttling her with a rope which he offered to produce. The inquest was held at the burial ground (Exhibit B) and the accused was then taken back to his house where he produced a rope (M. O. I) from a recess in a wall. He was then taken to a temple where the Tahsildar was camping, and there his statement was recorded. The Tahsildar first sent away the Circle Inspector, the Sub-Inspector and other people who had followed them and then took the accused to an inner room where they were alone, administered the usual warnings and recorded his statement as Exhibit D. The statement was made in Canarese and was recorded in Telugu, and was afterwards read to the accused in Canarese.

4. This statement is that the accused suspected that his wife was intimate with B. Mallesi (P. W. 6) and that ten days before, on the Tuesday, he had left early and waited in the temple to watch the house

and then saw P. W. 6 visit his house and stay there for some time. The following Monday he went away and on returning on the Wednesday evening (14th) he saw P. W. 6 on the road talking to his wife, and when they saw him P. W. 6 ran away and his wife went into the house. In the house he questioned his wife and could get no answer. Next day, Thursday, he again watched from the temple and saw P. W. 6 loitering about outside his house, but unable to go in as there were many people there. He questioned his wife again on that day and she then admitted at first that P. W. 6 had raped her on the Wednesday, but that night she admitted that she had been intimate with him. The accused according to the statement was unable to sleep that night through the shock of this discovery and in the early morning he killed her by treading on her throat and strangling her with a rope, and then at dawn told P. W. 5 that she had died of a scorpion bite.

5. P. W. 6 admits that he had been intimate with the deceased for six months, visiting her secretly at her house, that he visited her there on the Tuesday, 10 days before the occurrence and on the Wednesday before the occurrence he was talking to her outside the house and went away when he saw the accused. Karibasappa (P. W. 9), a servant in the Iswara temple, speaks of the accused's coming there about ten days before the occurrence at about 5 A. M. and waiting in the verandah, and still being there when P. W. 9 left at daybreak.

6. Post-mortem examination was held at the burial ground by the Sub-Assistant Surgeon whose evidence is Exhibit F and the certificate and notes Exhibits F(1) and F(2). There was ecchymosis on the front of the neck and chest, the thyroid cartilage was fractured and the left collar bone was torn from its attachment to sternum. These injuries according to the post-mortem officer are consistent with pressure by a foot or a knee and were anti-mortem. Death was due to asphyxia caused by strangulation, presumably connected with these injuries, and the officer is clear that it could not have been due to a scorpion bite. There is no indication in his description of any mark left by the rope which the accused said he used. It is possible that he had killed her with his foot before he used a rope or that the rope was not used forcibly enough to leave visible injuries.

7. The accused denies committing the offence and says that he told the Tahsildar consistently that his wife died of a scorpion bite but that he was beaten and forced to sign the statement. In the lower court he said that it was read over to him in Canarese. In this court he denies that it was read over at all. He is unable to offer any explanation of the injuries.

8. Although the record of the confession shows that usual warnings were properly given, it does not show the accused was given time for consideration. P. W. 3 says that he was given about 15 minutes while P. W. 3 was preparing his papers etc. The inquest report was closed at 5-15 P. M. and P. W. 3 thinks that it would have been 6-45 P. M., by the time the rope was produced and the recording of Exhibit D was finished by 8-30 P. M., which might leave about 15 minutes or so as P. W. 3 says. P. W. 3 does not appear to have realised the importance of giving as long a time as possible to a suspected person to think about his confession after warning. He says that he did not think time was necessary because he knew that the accused had been with him all the time and had not been under the influence of the police, and that it was practically inconvenient to detain the accused in the temple and much safer to hand him over to the police as soon as possible. But naturally he did not wish to do that before he recorded the confession. It would not have been very difficult to make an arrangement for the safe custody of the accused, who does not appear to be a desperate character, for a few hours without handing him over to the police, and although from one point of view the Tahsildar's opinion that time for consideration was unnecessary is quite reasonable, influence of the police is not the only reason for making such delay desirable. It is intended to ensure that a person making a confession has

a fair chance after warning to recover from any influence whatever, other than a spontaneous desire to speak the truth, that might have induced him to make a confession. Influence by the police is not the only influence that operates in that way. In the present case we have a clear example of another kind of influence, for this accused's confession had in the first place been elicited by questioning him when he was placed under a very terrible emotional strain, and possibly under the influence of superstitious fears, by seeing the face of his dead wife brought back from the grave. That may have been quite accidental in this case, and not deliberately intended by the officers, but it is not a method of securing confessions that is approved of by our procedure, and it is not only wrong, but it is likely to aggravate those inherent features of any confession which have so frequently been shown to make a confession, even a voluntary confession taken by itself, not altogether conclusive.

9. In this case there are however features which corroborate the confession to a very great extent, and which indeed afford very strong proof independently of it. In the first place the confession made before the body had been examined described actions which agreed exactly with the injuries found on the body and which could hardly have been known to the accused unless he knew that death was caused very much in the way he described, and the absence of injuries attributed to a rope would not weaken this corroboration.

10. In the second place, quite apart from the confession, the circumstantial evidence is that the accused and the deceased were living alone together and in the absence of any statement to the contrary were presumably together in the house that night when she died, and the accused must at least have known how she met her death, but he immediately gave out a false statement to account for it.

11. The assessors are all of the opinion that the accused is guilty, and acted under provocation. I agree with them and find that the accused killed his wife as stated in the confession and that he did so under one of the most serious forms of provocation that can exist. The fact that his action was delayed and was not the immediate result of the provocation makes the effect of the provocation none the less overwhelming and likely to remove his self-control, but takes it out of the clause "grave and sudden provocation". In spite of the provocation, therefore, the intentional killing was murder. I accordingly convict the accused of an offence under Section 302 and sentence him to transportation for life.

(Signed.) E. G. BARTER,
Sessions Judge.

N. B:—The accused has been committed to the Central Jail, Bellary.

Opinion of the Assessors:—

First and Fourth Assessors:—Guilty, but there was provocation.

Second and Third Assessors:—He killed the deceased, but it was not premeditated. There was serious provocation.

The following witnesses were examined:—

For the prosecution.

1. T. Pennaga.
2. Bhimasena Rao.
3. Balagurunatham Pillai.
4. P. Rama Rao.
5. Sowcar Basanna.
6. B. Mallesi.
7. Madiga Pedda Rama.
8. Hampanna.
9. Karibasappa.

For the defence.

Nil.

The following exhibits were filed :—

For the prosecution.

A/17—7—1937.	Complaint of Talayari Pennaga (P. W. 1) to the police.
B/17—7—1937.	Inquest report about the body of the deceased Basamma.
C/17—7—1937.	Portion of the panchanama prepared for seizing the rope.
D/17—7—1937.	Confessional statement of the accused recorded by the Taluk Magistrate (P. W. 3).
E/6—8—1937.	Plan of the scene of offence and its surroundings.
F/5—8—1937.	Deposition of Doctor Somalingam in the committing court.
F(1)/18-7-1937.	Post-mortem certificate regarding the body of the deceased Bukkittu Basamma.
F(2)/17-7-1937.	Post-mortem notes do. do.
G/5-8-1937 & 9-8-1937.	Statement made by the accused in the committing court.

For the defence.

Nil.

Material Object produced in evidence.

I. Rope.

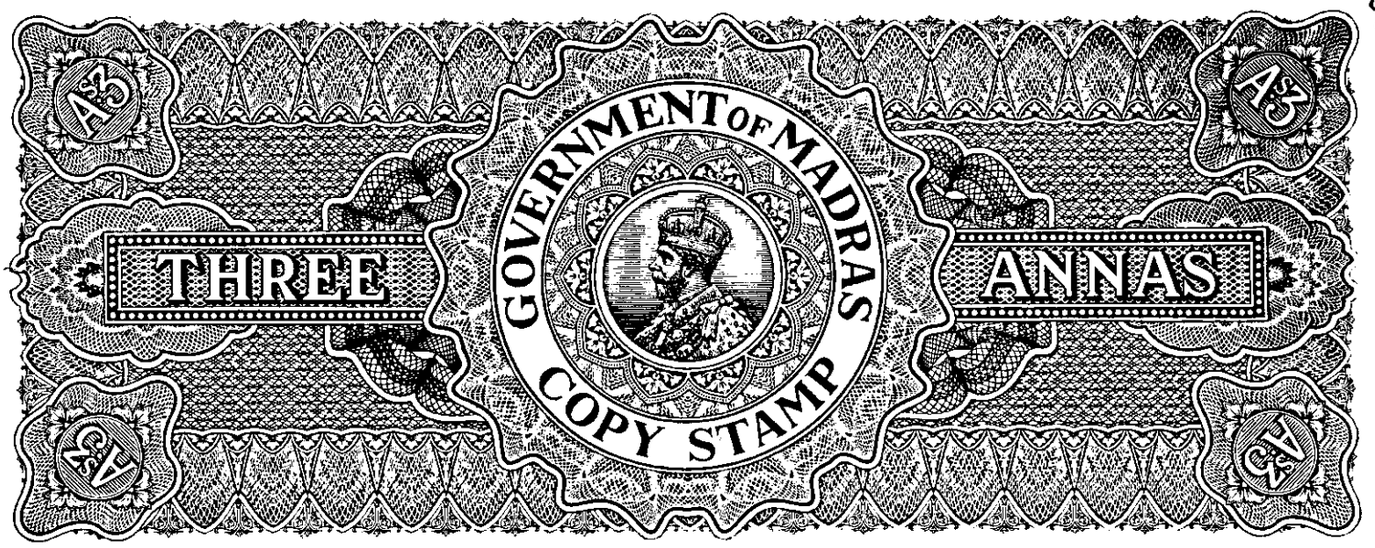
(Ild). E. B.
Sessions Judge.

(True copy).

Sheristadar. 23/7/37.

No. of words 2497 Charges Rs. 3—12—0. 23/7

Address
CA 63



IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Wednesday, the sixteenth day of March,
One thousand nine hundred and thirty eight.

Present:--

THE HONOURABLE MR. JUSTICE LAKSHMANA RAO

Criminal Appeal No. 630 of 1937.

Bukkittu Sangappa ... Appellant (Accused) (~~Petitioner~~ Prisoner) CD

Appeal against the Order of the Court of Session of Bellary Division in Case No. 22 of the Calendar for 1937.

This Appeal coming on for hearing, upon perusing the Petition of Appeal and the record of the evidence and proceedings before the Court of Session and upon hearing the arguments of Mr. P. Chandra Reddy and Mr. R. Ramalinga Reddy, Advocates for the Appellant and of the Public Prosecutor on behalf of the Crown, the Court delivered the following

JUDGMENT:-- The appellant has been convicted of the murder of his wife Basamma and sentenced to transportation for life.

The appellant and the deceased were living by themselves in a house adjoining P.W.5's house at Ethinabudihal and P.W.1 the talayari saw the deceased in front of her house on the evening of CD

175 - 1st sheet.

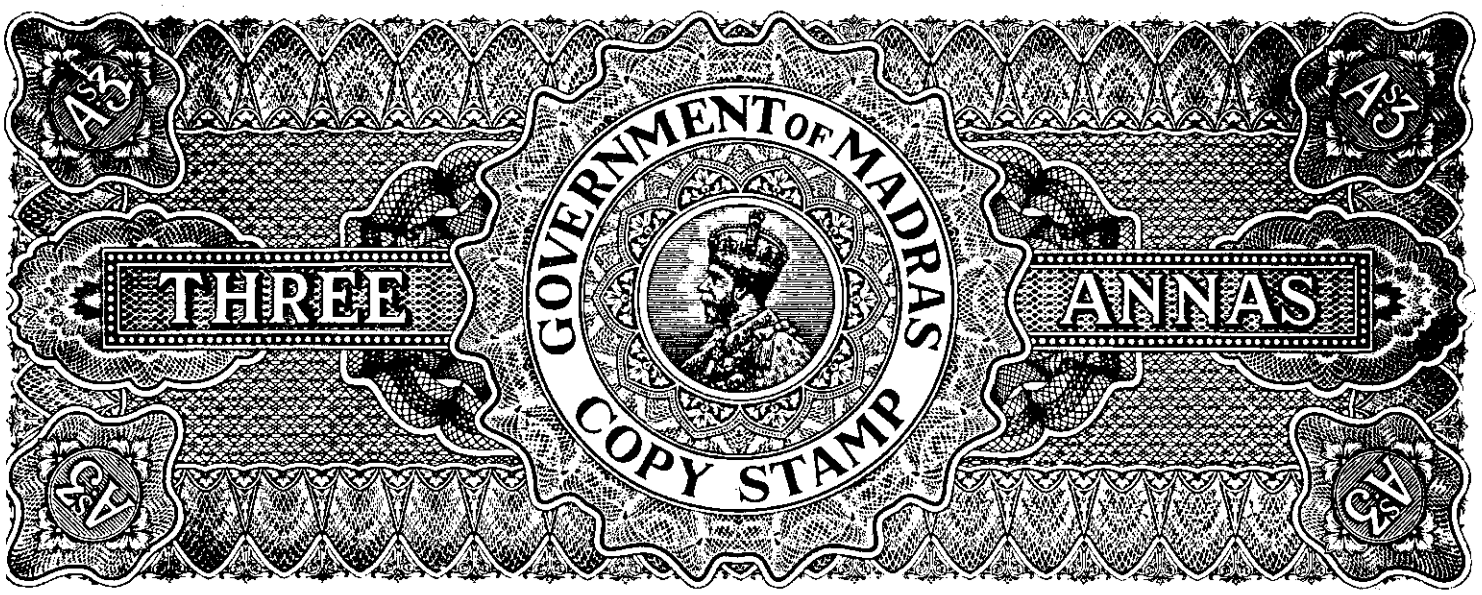
A.B.M.

GOVERNMENT OF MADRAS COPY STAMP THREE ANNAS

the 15th of July 1937. P.W.5 saw her in the house about 9 P.M. that night and it was not disputed that before dawn on 16th July 1937 the appellant took P.W.5 to his house saying that the deceased had been bitten by a scorpion and was cold. The deceased was lying in the room and P.W.5 suggested that ashes might be rubbed. The parents of the appellant were fetched from their house and a native Physician was brought. He found Basamma dead and the corpse was buried. The talayari heard a rumour that the deceased was beaten to death and he informed the Village Munsif. The latter took no notice but the rumour was persistent and P.W.1 reported the matter to the police at Bellary on the 17th July 1937. The Circle Inspector P.W.4 went to the Village with P.W.3 the Taluk Magistrate and the Sub Assistant Surgeon and the appellant was found in his house. The Magistrate questioned the appellant

175 - 2nd sheet.

A.B.M



about the deceased and he stated that she died of scorpion bite. He also added that he killed and threw the scorpion aside and when asked to show the place he began to tremble. He was then taken to the burial ground and the corpose was exhumed. The thyroid and collar bone were fractured and death was due to asphyxia. The factures were due to application of pressure to the neck and chest and the evidence shows that there was intimacy between P.W.6 and the deceased. The appellant was evidently fed up with his wife and independently of his confession to the Taluk Magistrate which was recorded without sufficient time being given for reflection the conclusion is irresistible that the appellant murdered his wife. The conviction is therefore right and the sentence is the minimum prescribed by law.

The conviction and sentence are accordingly confirmed and the appeal is dismissed. But the appellant is a youth of 23 years and in the circumstances of the case he might reasonably move the Provincial Government --

175 - 3rd sheet.

A.B.M.

8817

9

THREE ANNAS
GOVERNMENT OF MADRAS
COPY STAMP

under Section 401 of the Code of Criminal Procedure.

(Sd.) B.C. Sankaranarayana
17-3-38
Deputy Registrar, App. Side.

Ed

(True copy)

5/4/38.

6/4/38

Superintendent of Copyists.

32 - 4th and last sheet.

Total - 557

Copied by A. Balasubramanian.

J U D G M E N T.

Criminal Appeal No. 630 of 1937

[redacted], APPELLATE SIDE, CALCUTTA.

C. D. No. 2029

Application made	22-3-	193
Do. returned	/	193
Do. represented	/	193
Stamps called for	28-3-	193
Do. deposited	31-3-	193
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Copy ready	[illegible]	193
Delivered	12-4-	193

8

90

9-3-38

1 : : M.W.N 159 Criminal

Hr. P. Chandra Reddi
Advocate

Retracted 1920 Mad 109
Confession requires Corroboration

Occurance 15-7-1937.
Statements of Talayari } 17-7-1937.
Inquest 17-7-1937
Ex D - Confession 17-7-1937
8.15 P.M.

Printed for Court.

Material-object—Not sent.

HIGH COURT.

CRIMINAL APPEAL
No. **630** of **1937**.

~~Bukkittu~~ Sangappa,
Accused.

By Messrs. P. Chandra Reddi
and
R. Ramalinga Reddi.

BELLARY DIVISION.

Records
in
S.C. No. 22 of 1937.

To be heard on

Before
Hon Justice T. D. Lakshmana Rao.

Appeal dismissed
but recommended
to the Provincial govt
to remit under
section 401 Cr.P.C.

PRINTED AT THE GOVERNMENT PRESS, MADRAS.

15-3-38
RR Reddy

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IN THE COURT OF SESSION, BELLARY DIVISION.

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Charge.

IN THE COURT OF SESSION, BELLARY DIVISION.

Sessions Case No. 22 of 1937.

I, E. G. Barter, Esq., I.C.S., Sessions Judge, Bellary, hereby charge you, Bukkittu Sangappa, son of Basappa of Ethinabudihal, Bellary taluk, as follows:—

That you, on or about the 16th day of July 1937 at Ethinabudihal village, did commit murder by intentionally causing the death of your wife Basamma by trampling her on the throat and strangling her with a rope and thereby committed an offence punishable under Section 302 of the Indian Penal Code and within my cognizance.

And I hereby direct that you be tried before me on the said charge.

Dated this 16th day of September 1937.

(Signed) E. G. BARTER,
Sessions Judge.

Plea of the accused.

Plea of the accused.—"Not guilty."

P.W. 1.

(16—9—1937.)

Name—T. Pennaga. Father's name—Hanumanthappa. Village—Ethinabudihal. Taluk—Bellary. Caste—Boya. Calling—Talayari. Religion—Hinduism. Age—30 years.

My village is 7 miles from Bellary. Accused is of my village. His wife Basamma lived wih him in his house for about two years. There were no others living there, his parents living separately. On Friday morning I heard Basamma died of scorpion bite and I went and saw her body in his house. Later it was rumoured that she was beaten to death. I had seen her sweeping in front of her house and quite healthy on the Thursday evening. I told the Reddi about the rumour but he took no notice. The karnam was absent. That night the rumour was stronger and Saturday morning I came to Bellary and saw the karnam at the

Taluk office. He asked me to tell the Police. I went to the Sub-Inspector at the kasba station, beside the Taluk office and he recorded my statement Exhibit A. The Circle Inspector, doctor and Tahsildar came to the village and had the body exhumed.

Cross-examination.—Deceased was accused's sister's daughter. Her mother is a widow. Deceased joined accused three years ago. Accused was not supporting her mother. Accused and deceased quarrelled at times. His parents were living separately for the last two years. Accused and deceased had lived with them for six months. They separated as the parents had not got on with deceased. I came to Bellary on my own business.

Re-examination.—Nil.

P.W. 2.

(16—9—1937.)

Name—Bhimasena Rao. Father's name—Raghavendra Rao. Village—Ethinabudihal. Taluk—Bellary. Caste—Brahmin. Calling—Karnam. Religion—Hinduism. Age—40 years.

I am karnam of Ethinabudihal. On 17—7—1937 I was at Bellary. P.W. 1 came to me and told me of deceased Basamma's death and that she was said to have died of scorpion bite, but there was a rumour that the death was suspicious. I asked him to tell the Police. He went and did so. He and I returned to the village together at 1-30 p.m. The Tahsildar, doctor and Circle Inspector came later in the day and had the body exhumed. I was present. Exhibit B is the inquest report. It was the body of Basamma, wife of accused.

Cross-examination.—Sowcar Erappa's house is 50 yards from accused's house. Ten years ago I sold a land to accused's father. There is a registered document. He improved that land. I did not claim the land from accused 2 years ago, promising to pay Rs. 500. The feelings between us have not been strained. Accused's house has no front door. People inside can be seen from the road. People inside the inner room cannot be seen. Accused was present at the inquest with the Tahsildar.

Re-examination.—Nil.

P.W. 3.

(16—9—1937.)

Name—C. Balagurunatham Pillai. Father's name—C. Parasurama Pillai. Village and taluk—Bellary. Caste—Karnam (N.B.). Calling—Tahsildar and Taluk Magistrate. Religion—Hinduism. Age—49 years.

On 17—7—37 the Circle Inspector asked me to go to Ethinabudihal and I went with him and the Sub-Assistant Surgeon, Doctor Somalingam from hospital in a car. At the village we went to accused's house. Accused was there alone. I asked him where his wife was and he said she was buried, having died 2 nights before of a scorpion bite. He said he killed the scorpion and threw it aside. When I asked him to show where he threw it, he began to tremble and said he could not show the exact place. He took us to show where she was buried. It is the ordinary burial-ground. He showed a new mound. Having heard the rumour repeated, I ordered exhumation. As the face became visible, I asked accused if it was his wife and asked him to tell the truth about her death. He fell at my feet and said it was true that he murdered her. The body was disinterred. Inquest was held. I signed the report Exhibit B. The body was examined there by the Sub-Assistant Surgeon. Accused when he first confessed to me, told me that as she was unfaithful, he pressed his right foot on her neck when she was asleep, and as she made some sound, he wound a rope round her neck tight, and killed her. He said also that the rope was in his house and he would produce it. After post-mortem, I, the Sub-Assistant Surgeon and the Circle Inspector took him to his house and he produced M.O. 1 from a recess in the wall, where there were also baskets and other articles. That was in the inner room. Exhibit C is the panchanama. That was about 6 p.m. I see that is wrong. It was 6-30 p.m. at the burial-ground and he produced the rope about 15 minutes later. Accused was with me all this time. I took him to the big temple—Kattai Basappa's temple. There I asked him if he was prepared to make a statement.

Court.—The Circle Inspector and Sub-Inspector came to the temple with me. I then asked them to leave, and they went away. I did not see where to. Then I asked accused if he would make a statement. I told him to think about it. Then I got ready my papers, and took him to an interior part of the temple

to prevent any one interrupting. Nobody was there when except my peon, but I thought more privacy desirable. He said he would make a statement, before I took him to the inner room.

Examination-in-chief.—There asked him about inducement, etc., and he denied it and said it was a voluntary statement. That was about 20 minutes after we reached the temple. I was satisfied it was a voluntary statement and I cautioned him, as recorded in the statement. Then I recorded his statement Exhibit D. It was finished by 8-30 p.m. He spoke in Kanarese. I recorded in Telugu. I can speak Kanarese, but cannot write it. If I spoke to him in Telugu he sometimes answered in Telugu but with difficulty. I read Exhibit D to him in Kanarese and he said it was correct. I then handed him over to the Circle Inspector outside the temple.

Cross-examination.—The introduction to Exhibit D was written after we went to the inner room. I did not put questions to the accused during his statement. He occasionally stopped and I told him to go. He spoke Kanarese except that when I first put questions in Telugu and he answered in Telugu. I asked him which language he knew better and he said Kanarese. Then I questioned him in Kanarese. I can write Kanarese in Telugu script, but I always record statements in Telugu here, even if they are made in Kanarese. I warned him that he need not make a statement, and that it would be used against him, after I took him to the inner room. Exhibit D does not show I gave accused time for reflection. I told accused I was the Tahsildar. I did not explicitly tell him I was not a Police officer. We Inspected accused's house, but saw nothing incriminating. Exhibit D does not say he began to tremble only when asked where the scorpion was. I did not think it necessary to detail the questions there.

Court.—I did not think it necessary to give the accused further time, because he had all along been with me and I knew he could not have been under influence, while, as I was not staying in the village I would first have had to hand him over to the Police to be brought back to Bellary, if I wanted to question him later.

Cross-examination.—I did not think it necessary to record that in Exhibit D. It did not occur to me.

Re-examination.—Nil.

Re-called 16—9—1937.

Court.—I did not say I was not staying in the village. I stayed there that night and next day. But I could not have kept accused safely in my custody and would have had to hand him over to the Police for safe keeping. I wanted to take his statement before I did that.

Cross-examination.—My deposition was read to me by the clerk. I did not notice the error. There were some villagers at the temple when the Circle Inspector and Sub-Inspector were there. I sent them all away.

By prosecution.—Nil.

P.W. 4.

(16—9—1937.)

Name—P. Rama Rao. Father's name—P. Bhaskara Rao. Village and taluk—Bellary. Caste—Brahmin. Calling—Circle Inspector of Police. Religion—Hinduism. Age—47.

I received information from the Sub-Inspector on 17—7—37 of the report in this case. I saw Exhibit A and took P.W. 3 and the Sub-Assistant Surgeon to the village arriving there at 3-30 p.m. We found accused alone at his house. P.W. 3 questioned him about his wife. He said she died of a scorpion sting. He said he had killed the scorpion but when asked where it was, he began to tremble, and said nothing. He then took us and showed us the grave, and the body was exhumed. The loose earth was removed, and as the face appeared the Tahsildar asked accused to speak the truth and accused then said it was true he killed her, and fell down, and said that as she was unfaithful, he put his foot on her throat when she was asleep, and tied a rope round her neck and killed her. The body was removed, inquest was held (Exhibit B) and the doctor examined the body. The accused said the rope was in his house and we went there with him, where he took a rope from a recess in the wall. It is M.O. 1. The mahazar is Exhibit C. We then went to the temple—I, the Tahsildar, the doctor, the Sub-Inspector, the accused and some villagers. There the Tahsildar asked us to go away and we left the Tahsildar and his peons alone with accused. At about 8-30 p.m. I was sent for. P.W. 3 handed accused over to me. I took him into custody. Later that night, I questioned the other witnesses and I left next morning. Exhibit E is the plan.

Cross-examination.—Some constables went with us. Exhibit A does not say who was suspected. I did not know then who lived

in deceased's house. I might have told the Tahsildar that she had been murdered by her husband. That was my impression from the report Exhibit A. I searched accused's house when I first got there. I took no special measures to keep accused with us. There was no need. I did not arrest him when he first confessed, because the Magistrate was there, making inquiries, and I did not want to interfere. The villagers were sent away from the temple with us. The Magistrate wanted nobody there. He had one or two peons. The Magistrate stayed that night at the temple, and left next morning. There was no sort of disagreement between me and the Tahsildar about the investigation.

Re-examination.—Nil.

Re-called.

Chief-examination.—I was present when Doctor Somalingam was examined in the lower Court. His deposition was read out and attested in the presence of the accused.

Cross-examination.—Nil.

P.W. 5.

(16—9—1937.)

Name—Sowcar Basanna. Father's name—Rudrappa. Village—Ethinabudihal. Taluk—Bellary. Caste—Lingayat. Calling—Cultivation. Religion—Hinduism. Age—27 years.

Accused's house adjoins mine. He lived with his wife alone in his house. Before dawn, on the Friday, I heard of her death. Accused came and told me she had been bitten by a scorpion and was cold and wanted me to go there. I went and saw her lying in a room in his house. I advised rubbing with ashes and at his request, I told his parents and took them to his house at 4 or 5 a.m. It was still dark in the house. I saw deceased by lamplight. A native doctor came and I went away. After day-break, I saw her body and was told she was dead. She had been in good health the day before. I had seen her at 9 p.m. During the night on my pial at about midnight, I heard a sound "gum-gum". I thought it was the sound of pigs, but could not see.

Cross-examination.—I went with them to the temple, when accused was taken there by P.Ws. 3 and 4. Other people were also there. We were not making a noise. P.W. 4 had sent for

me. Accused's mother-in-law lives in another village. Deceased was lying inside the room in deceased's house. It is separated from the main hall by a tatti. I told accused's parents deceased had been bitten at midnight by a scorpion. Accused told me that.

Re-examination.—Nil.

P.W. 6.

(16—9—1937.)

Name—B. Mallesi. Father's name—Sirasappa. Village—Ethinabudihal. Taluk—Bellary. Caste—Viswakarma. Calling—Carpenter. Religion—Hinduism. Age—27 years.

I live 7 or 8 houses away from accused's houses and I used occasionally to go, speak to deceased. I was intimate with her for 5 or 6 months before her death, visiting her secretly. Ten or 12 days before the occurrence, I went into her house to her at about 8 a.m. Accused was not present. I stayed about half an hour. I heard of her death on Friday morning. The previous Wednesday evening, she was in front of her house and we talked as I passed. P.Ws. 3 and 4 came to the village on the Saturday and I was examined by them at the temple.

Cross-examination.—I did not know deceased before. I was intimate with her 6 months before her death. We used also to meet in other places. We were not talked about in the village.

Re-examination.—Nil.

P.W. 7.

(16—9—1937.)

Name—Madiga Pedda Rama. Mother's name—Lakshmakka. Village—Ethinabudihal. Taluk—Bellary. Caste—Madiga. Calling—Cultivation. Religion—Hinduism. Age—32 years.

My family dig graves. Deceased was wife of accused. She died and was brought to the burial ground. Accused was with her. His brother asked me to dig a grave. I and three others did so and she was buried. Next day, P.Ws. 3 and 4, etc., came and under their orders I disinterred the body.

Cross-examination.—Nil.

P.W. 8.

(16—9—1937.)

Name—Hampanna. Father's name—Vonkarappa. Village—Ethinabudihal. Taluk—Bellary. Caste—Viswa Karma. Calling—Goldsmith and native doctor. Religion—Hinduism. Age—40 years.

I am a native doctor. I was called before day-break and at 5 or 4-30 a.m. and told deceased had been stung by a scorpion. When I got there, she was lying in a tatti room. Ashes were being rubbed on her. I found she was dead.

Cross-examination.—There were a number of persons there. The "room" is separated from the hall by a tatti, about a man's height. The Police sent for me at the temple at 10 p.m. P.W. 3 was there and P.W. 4 and another officer and a number of others. The other officer examined me.

Re-examination.—Nil.

P.W. 9.

(16—9—1937.)

Name—Kari Basappa. Father's name—Erappa. Village—Ethinabudihal. Taluk—Bellary. Caste—Jangam. Calling—Cultivation. Religion—Hinduism. Age—28 years.

Eswara temple is opposite accused's house. I worship there. On Friday, I heard of deceased's death. Ten or 12 days before that, at 5 or 5-30 a.m. accused came to the temple and sat on the pial inside. I swept the temple and went away at sunrise. Accused was still there.

Cross-examination.—Accused often sat in my temple. Accused and his wife were on good terms. I have not heard a rumour of her intimacy with P.W. 6.

Re-examination.—Nil.

Exhibit G.

(*Statement of the accused.*)

IN THE COURT OF THE STATIONARY SUB-MAGISTRATE, BELLARY.

Preliminary Register Case No. 6 *of* 1937.

Statement of the accused.

Name—Bukkittu Sangappa. Father's name—Basappa. Village—Ethinabudihal. Taluk—Bellary. Caste—Pakanati Kapu. Calling—Cultivation, coolie. Religion—Hinduism. Age—23 years.

Date 5—8—1937.

Q.—You have made a statement on 17th July 1937 in the temple of your village before the Tahsildar, P.W. 3, confessing that you trampled your wife on the throat with your foot, strangled her with a rope round her neck and killed her. The doctor, P.W. 10, has said after examining the body that the bone in the throat was fractured and that that injury was ante-mortem. What explanation do you offer?

A.—I was taken to the temple and beaten. Unable to bear the beating I said "What am I to say, sir? She died stung by a scorpion." I was beaten, threatened and questioned. I said nothing. Something was reduced to writing and I was asked to sign. I said I did not know to sign. I was asked to put my thumb-impression and I did so.

Q.—What is the language you speak in the house?

A.—We speak Kanarese.

.—Do you or do you not know Telugu?

.—I do not know Telugu.

Q.—In what language did the Tahsildar question you?

A.—He questioned me at first in Telugu. I said I did not know Telugu. He then questioned me in Kanarese. I do not know what he wrote down.

Q.—Was it read over to you when the thumb-impression was taken?

A.—It was. It was done in Kanarese.

(Left thumb-mark of) B. Sangappa.

Certified that, etc.

(Signed) R. TIRUMALA RAO,

5—8—37. *Stationary Sub-Magistrate.*

(9—8—1937.)

Q.—As your statement before the Tahsildar agrees with the evidence of the doctor the charge framed under Section 302, I.P.C., against you has been read out and explained. Have you witnesses under Section 211 (1) Cr.P.C.?

A.—(1) Bhavi Nagi Reddi.

(2) Jeerra Thippaswami.

(3) Brahmin Sundarayya.

(4) Ayyanavara Karenna.

(5) Sowcar Eerappa.

These should be examined in the Big Court. All these are of Ethinabudihal.

(Left thumb-mark of) B. Sangappa.

Certified that, etc.

(Signed) R. TIRUMALA RAO,
Stationary Sub-Magistrate.

9—8—37.

Examination of the accused.

IN THE COURT OF SESSION, BELLARY DIVISION.

Sessions Case No. 22 of 1937.

Examination of the accused.

Name—Bukkittu Sangappa. Father's name—Basappa. Village—Ethinabudihal. Taluk—Bellary. Caste—Pakanati Kapu. Calling—Cultivation and coolie. Religion—Hinduism. Age—23 years.

Date 16—9—1937.

Q.—You have heard the statement you made before the Committing Court now read to you. Is it correct?

A.—It is.

Q.—You have heard the evidence against you in this Court. Have you anything more to say?

A.—I did not make the confession statement.

Q.—Did you make a statement to anybody in the temple of your village when asked about your committing the offence?

A.—I told the Tahsildar that my wife died of scorpion sting. The Police beat me severely. I made no statement to anybody. Nothing was read out to me. I was forced and I put my thumb-impression.

Q.—In the lower Court you have said that the confession statement was read to you in Kanarese. Is it true?

A.—I was confused. I do not know what I said.

Q.—Can you explain how the injuries on your wife came by?

A.—There were no injuries on my wife. She died of scorpion sting.

Q.—The doctor says she was strangled to death. What is your explanation?

A.—I did not strangle her. She died of scorpion sting.

Q.—Have you witnesses?

A.—My pleader will say about it.

(The defence counsel says it is not necessary to examine any witnesses.).

(Left thumb-mark of) Bukkittu Sangappa.

Certified that the foregoing examination was taken in my presence and hearing and the record contains a true and full account of the statement made by the accused.

(Signed) E. G. BARTER,
Sessions Judge.

IN THE COURT OF SESSION, BELLARY DIVISION.

Sessions Case No. 22 *of* 1937.

Examination of the accused.

Name—Bukkittu Sangappa. Father's name—Basappa. Village—Ethinabudihal. Taluk—Bellary. Caste—Pakanati Kapu. Calling—cultivation and coolie. Religion—Hinduism. Age—23 years.

Date 16—9—1937.

Q.—You have heard the statement you made before the Committing Court now read to you. Is it correct?

A.—Yes.

Q.—You have heard the evidence against you in this Court. Have you anything more to say?

A.—I told the Tahsildar she died of scorpion sting. The Police beat me severely. I made no statement to anybody. Nothing was read out to me. I was made to sign.

Q.—In the lower Court you said the statement was read to you in Canarese?

A.—I do not remember what I said in the Magistrate's Court. I was confused.

Q.—Can you explain the injuries on your wife's body?

A.—There were no injuries.

Q.—The doctor says there were and that she was strangled?

A.—She died of scorpion sting.

Q.—Any evidence?

A.—I do not know. I leave it to my pleader.

(Defence counsel says it is not necessary as it is intended only to show he told the Tahsildar his wife died of scorpion-bite and that the witnesses do not even support this.)

Exhibit A.

Statement of talari Pennuga, son of Hanumanta of Yethinabudihal at Bellary taluk station on 17—7—37 at 10-30 a.m.:—

I am the missal talari of Yethinabudihal. Basamma, wife of Bukkittu Sangappa, son of Basappa of our village, was alright till the evening of 15—7—37. A rumour was spread that the said Basamma died on the night of 15—7—37 of scorpion sting and on the morning of 16—7—37, the body of the said Basamma was buried. People in the village are talking it over in low voices (guja, guja). There is a rumour in the village that it was not a case of scorpion sting but of suspicious death. The V.M. of our village has not reported about this.

Basamma's sudden death is of suspicious nature. If you start enquiries, truth will be out.

My statement was read over and I found it to be correct.

(Signed) Talari Pennuga.

Taken down by me, read over and admitted to be correct.

(Signed) B. N. N. Swamy,

17—7—37. *Sub-Inspector.*

Exhibit B.

(*Inquest report.*)

MADRAS POLICE.

No. 19 of 1937.

District—Bellary. Circle—Bellary. Station—Bellary Cusba.

Report of investigation under Section 174, Criminal Procedure Code, on the body of Basamma of Y. Budihal, found dead on 17—7—37.

Q. 7.—State of corpse; if any wounds, particulars thereof and list of all property found on the corpse:—

A.—The body of the deceased had been seated in a pit. It had been seated with its face towards north. It was reclining against the southern wall in the pit with its legs folded. The pit was 4½ feet deep. It had been buried in the burial ground about a furlong away from the peta in the Kuruba quarters of Ethinabudihal village. We got the pit dug out by (1) Madiga Hulugadu, (2) Madiga Pedda Ramaga, (3) Madiga Nemakkalluga and (4) Madiga Yalluga. There was a string of black beads hanging on the neck. It had nothing else on its person, not even the saree or the bodice. All round the waist was covered with tangedu leaves. Bloody foul water was coming out from the mouth and nose. There were blebs on the body. The skin had pealed off here and there. The eye-balls had protruded. The hair was 8 inches long and was covering the face.

Exhibit C.

At about 6-30 p.m. on the 17th of July 1937, the accused Sangappa * * * [took us from the place where the corpse lay and pointed out a rope which had been kept in a stone niche in his house.] Exhibit C.

(Signed) Jeerra Thippeswamy.
(,,) Kyatalu Naga Reddi.
(,,) P. Rama Rao, Inspector, B Circle.
(,,) B. N. Narayanaswamy, Sub-Inspector.

17—7—37. (Signed) C. Balagurunatham.

Exhibit D.

Statement recorded from Bukkitla Sangappa, son of Basappa of Ethinabudihal under Section 164, Criminal Procedure Code:—

As I was instructing the Public Prosecutor, Bellary, in a civil suit case in the District Munsif's Court, Bellary, the Circle Inspector of Police came to the Court and wanted my presence in exhuming the body of a woman who was murdered by her husband. I started with him and taking the Resident Medical Officer from the Government Hospital, Bellary. We reached the village and went direct to the house of the accused Sangappa and inspected the premises. When questioned, Sangappa began to tremble and said that his wife died of scorpion bite and she was buried on the morning of Friday, the 16th. We all proceeded to the burial ground and while disinterring the body of the woman, the accused was again questioned by me and he immediately fell on my feet and admitted that it was a fact that he stifled his wife at the neck and did away with her. After the inquest report was completed, we again came to the house of the accused as he had said that while he stifled his wife by his right leg, he also tightened a rope round her neck. The accused produced the rope from under a rock *niche* in his house. I then proceeded to the temple where I halted and recorded this statement from the accused who was all along with me away from the influence of the Police. Before I commenced to record his statement, I have explained to the accused that he is not bound to make this statement and that if he does so, it will be used against him at the time of the trial. From a few questions put to him, I have every reason to believe that the statement is being made by him voluntarily.

Q.—Do you know that the statement you are about to make would be used against you at the trial?

A.—I know. I shall state all that has happened. Afterwards you may do anything.

Q.—State what has happened?

A.—People in the village were whispering that my wife was intimate with Badigeri Mallesi. I wanted to detect in some way or other and on a Tuesday, 10 or 12 days ago, I told my wife that I would go for ploughing, pretended going out, remained in the Eeswara temple between the pillars there, as if I was lying there and was looking at the house. Now and then my wife was coming out and looking this side and that. Long afterwards, Mallesi, who was moving about this side and

that, got into the house. He did not come out for a long time. I got up and saw if he had gone. Mallesi came out of the house and went lower down (towards east). My wife came out and again went inside the house. I saw that, that day, with my own eyes. A little while after that, I went into the house. I did not question anything the whole of that day. I stayed in the village for some days and on the last Monday, in the morning, I went to the house of my sister Gangamma at Gollaripalle on the Gooty side and returned to our village on Wednesday evening. There was still sunlight then. Before I got to my house, I saw Mallesi standing in the street in front of my house and my wife standing at the front door of my house and they were talking together. My wife saw me and went inside the house and Mallesi went lower down (eastwards). I went into the house, my wife gave me water and I drank it and questioned her as to why she was talking with Mallesi. She hung down her head and kept quiet. I wanted to test again. On the morning of the following Thursday, I told her I would go out and went into the Eeswara temple and lay down as before between the pillars. Mallesi came and was moving about in front of my house. As there were a number of people there, he went away not having an opportunity that day. After a little while, I went into the house and questioned her as to why Mallesi was going there now and then and bade her to speak the truth. I said that I had seen him coming there before I went to the village and that he had again come the previous day and that day also and threatened to beat her if she did not tell the truth. She said that on the Wednesday, the day of my return from the village, Mallesi had raped her by force. I did not know what to do and I kept quiet. I questioned her again on the night of Thursday and she admitted her intimacy with Mallesi. I kept quiet. We went to bed. I could get no sleep that night. I got up in the morning before cock-crow time, thought that I should no longer spare the life of my wife and while she was asleep, I pressed her throat with my right foot and squeezed her throat. I had before then put a rope under her neck. She groaned (gorru gorru). I then tightened her neck with the rope. After the life was extinct, I went to Sowcar Basamma and brought him saying that she was stung by a scorpion. It was dawn by then and people were moving about (in the village) and asked me to call my mother. I got her. All came. I did not send word to my wife's mother. I thought I could do so on the third day. On Friday, when the sun was two fathoms

high, we carried the corpse and buried it. Goolappa, Dodda Basappa, Basanna and Linganna—these men—carried the corpse and I followed it. Narayanappa and my mother-in-law Akka Nagamma also came. I did not inform the V.M. about this.

When I lay-in-wait in the Eeswara temple on a Tuesday, 12 days ago, Karibasappa, the worshipper at the temple asked me why I was lying there, and I told him that I had pain in my eyes and did not attend to work. After returning from the burial ground along with you, I produced before the respectable men, the rope with which I had tightened.

(Left thumb-impression of) Bukkitla Sangappa.

I have explained to the abovesaid Sangappa that he is not bound to make a confession and that if he does so, any confession he may make, may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence and hearing and was read over to the person making it in Canarese and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(Signed) C. BALAGURUNATHAM,
Taluk First-class Magistrate.

17—7—37.

Exhibit F.

IN THE COURT OF THE STATIONARY SUB-MAGISTRATE, BELLARY.

Preliminary Register Case No. 6 *of* 1937.

Deposition of tenth witness for prosecution.

Name—N. Somalingam. Father's name—Veerabrahmam. Village and taluk—Bellary. Caste—Viswabrahmin. Calling—Sub-Assistant Surgeon. Religion—Hinduism. Age—44.

Solemnly affirmed on 5—8—37.

I have been the Sub-Assistant Surgeon at the Headquarters hospital for the last three months. I had been to Ethinabudibal village with the Tahsildar and the Police Circle Inspector. I was present when the body of Basamma was exhumed on 17th July 1937. At 4-30 p.m., the body was handed over to me for post-mortem examination. I conducted post-mortem examination in that village. Features were visible and identifiable when the body was taken out. I found ecchymosis on the front of the

neck and upper part of left chest. On dissection, I found effusion of fluid into the tissues below the ecchymoised part. I found also the thyroid cartilage fractured and inner end of the left collar bone had been torn from its attachment to sternum. I did find the right side of the heart contained blood and the left side empty. There was also congestion of lungs. I am of opinion that death was due to asphyxia due to strangulation. I gave the post-mortem certificate. This is the post-mortem certificate (Exhibit F). Fracture of thyroid bone and collar bone are due to the application of pressure to the neck and chest by pressing with the leg or knee. Symptoms of asphyxia might also be caused by the twisting of the rope round the neck and pressure put. The woman must have died 1½ days before, when I conducted post-mortem examination. Death must have been long after the last meal, because stomach was empty. I did not find any signs of asphyxia due to scorpion bite. The injuries were anti-mortem. I did not think, that death was, in my opinion, due to scorpion sting.

Cross-examination.—Nil.

(Signed) M. Somalingam,
Sub-Assistant Surgeon.

5—8—37.

Taken down by me, etc.

(Signed) R. TIRUMALA RAO,
Stationary Sub-Magistrate.

5—8—37.

Exhibit F-1.

(*Post-mortem certificate.*)

No. 28 of 1937.

Regarding the body of a female, aged 18 years, name, Bikkittu Basamma, received on 17th July 1937 at 4-30 p.m. from the Circle Inspector of Police, Bellary, with his letter No. nil, dated 17th July 1937 and in charge of Police constable No. 324.

Identification and caste marks—

(1) Tattoo marks on both the forearms.

(2) Tattoo mark on the right cheek.

(3) Tattoo mark on the middle of the forehead.

The body was first seen by the undersigned at 4-30 p.m. on 17th July 1937.

Its condition then was cold, rigor mortis passed off, decomposition commenced.

Post-mortem commenced at 4-30 p.m. on 17th July 1937. Body exhumed and the examination conducted at Ethinabudinahal.

Appearances found at the post-mortem.—Body of a fairly nourished woman, features swollen, eyes open, prominent. There is discharge of sanious frothy fluid through nose and mouth. There is diffuse ecchymosis on the front of the neck and upper part of left chest. On dissection there is effusion of fluid and clotted blood into the tissues below. The thyroid cartilage is fractured vertically in front in the middle and the inner end of the left collar-bone is torn from its attachment to sternum. Heart weighs 7 oz. Right side contains fluid blood and left empty. Lungs—right weigts 9 oz.; left 8 oz., dark green in colour, congested. Stomach empty. Mucous membrane pale, liver weighs 32 ounces, softened, gall bladder contains 2 drams bile, spleen weighs 18 ounces, enlarged cut surface moist. Kidneys each weighs 4 oz., section soft. Intestines—large contains semi-solid fæcal matter, bladder empty, uterus measures 2 inches by $1\frac{1}{4}$ inch. Opening of head no injury and scalp no fracture of bones, membranes anæmic, brain substance softened, spinal column—no injury to soft parts, no fracture of bones.

Opinion.—The deceased would appear to have died of asphexia due to strangulation as a result of the injury.

Bellary,
18—7—1937.

(Signed) M. Somalingam,
Sub-Assistant Surgeon.

Exhibit F-2.

(*Post-mortem notes.*)

Report to be forwarded with the body sent for post-mortem examination.

1. Preliminary particulars.

Name—Bukkitta Basamma, female, aged about 18 years, approximate height 4 feet 10 inches, colour of eyes black, colour of hair black, length 8 inches. Caste marks nil. Other marks of identification—tattoo marks on right forearm, right cheek and forehead. Village—Yethinabudihal, caste—Kapu, ' found at 4 a.m. on 15th July 1937 night at Ethinabudihal.

Sent by Circle Inspector, Bellary, in charge of P.C. No. 324, Dulvi Sahib at 4-30 p.m. on 17th July 1937.

2. The following wounds and injuries are found on the body :—

(1) Blebs all over the body.

(2) Bloody discharge from nose and mouth.

3. The manner in which and the weapon or instrument (if any) with which the wounds and injuries mentioned in item 2 appear to have been inflicted.

The deceased Basamma is said to have been done to death by her husband by pressing her neck with his foot and then putting a rope round the neck and keep it tight till she died.

Clothes, ornaments, jewellery, etc.—Nil.

Station : Bellary Taluk station.

(Signed) P. Rama Rao,
Inspector, B Circle
(*Circle Inspector of Police*).

17—7—37, 4-30 p.m.

Notes of post-mortem examination.

Post-mortem examination on the body of Bukkitta Basamma conducted by M. Somalingam, Sub-Assistant Surgeon at Ethinabudinahal.

Notes from the requisition for a post-mortem examination on the body of a female named Bukkitta Basamma, aged about 18 years, residence—Ethinabudinahal, caste—Kapu, approximate height—4 feet 10 inches.

Identification marks—

(1) Tattoo marks on both the forearms.

(2) Tattoo mark on the right cheek and forehead middle.

Found died at 4 a.m. on 16th July 1937 at Ethinabudihal.

Sent by Circle Inspector of Police, Bellary, with letter No. nil, dated 17th July 1937 and in charge of P.C. No. 324, Dule Sab. Received at 4-30 p.m. on 17th July 1937 at Ethinabudinahal.

The body was exhumed and the examination conducted at the place itself.

The following article was also sent with the corpse :—

A necklace of small black beads.

Notes of post-mortem examination.

The body was first seen by the undersigned at 4-30 p.m. on 17th July 1937.

Its condition then was cold; rigor mortis absent. Incipient decomposition present.

The examination was conducted by M. Somalingam, Sub-Assistant Surgeon, on 17th July 1937, and was begun at Ethinabudinahal at 4-30 p.m. after exhumation.

Identification marks were verified and found to agree with the description.

External examination.

Condition of clothes.—No clothes, but the private parts covered with tangoli leaves. The body lies in a seated posture while being exhumed.

Body is fairly nourished.

Colour of iris black, hair black. Blisters on sides of chest abdomen and thighs. Peeling of cuticles present.

Injuries.—A diffuse ecchymosis on the front of the neck and upper part of the chest left. On dissection there is effusion of fluid and clotted blood into the tissues below. The thyroid cartilage is fractured in front vertically and in the middle and the inner end of the left collar-bone is torn from its attachment to sternum.

The general appearances do tally with Police report.

Death would appear to have occurred one and half days ago.

Features contarted, swollen.

Hair length 8 inches.

Eyes prominent—pupils not discernible.

Nose—there is discharge of sanious frothy fluid.

Mouth and lips—No characteristic odour.

Discharge of sanious frothy fluid through mouth.

The teeth complete. 16 upper and 16 lower.

The jaws not clenched.

The tongue not protruded.

The hands empty.

Level of diaphragm 3rd and 4th.

Opening of throax.—Position and colour of organs normal.

The heart weighs 7 oz., right side contains a small quantity of fluid blood.

Left auricle, etc., empty.

The great vessels dark.

The lungs—Right weighs 9 ounces, left 8 ounces, congested. Colour dark green.

Section soft. Left pleural cavity contains 2 ounces of blood-stained fluid.

Larynx, glottis, trachea, injected.

The stomach shrunken.

Contents—Empty.

Inner surface colour pale.

Mucosa pale.

Pancreas average weight 2 ounces.

The liver weight 32 ounces—decomposing.

Gall-bladder full contains 2 drs. of bile.

The spleen weighs 18 ounces, enlarged cut surface moist.

The kidneys 4 ounces each. Section soft.

Small intestine gruel like substance.

Mucosa pale.

Large intestine contains semi-solid fæcal matter.

The bladder empty.

Uterus measures 2 inches by $1\frac{1}{4}$ inch, weighs $2\frac{1}{2}$ ounces.

Opening of the head.—The soft parts present no injury. No extravasation of blood.

No fracture of bones.

The membrances anæmic.

Brain weight 33 ounces, softened

Spinal column—Soft parts present, no injury.

No fracture of bones.

Summary of opinion.—The deceased would appear to have died of asphyxia due to strangulation as a result of the injury.

Camp: Ethinabunadihal.

Dated 17th day of July 1937.

(Signed) M. Somalingam,
Sub-Assistant Surgeon.

MEMORANDUM OF CRIMINAL APPEAL.

(Under Section 410, Cr.P.C.)

In the Court of Session, Bellary Division.
Sessions Case No. 22 of 1937.

In the High Court of Judicature, Appellate Side, Madras.
Criminal Appeal No. 630 of 1937.

	In the First Court.	In the High Court.
Between		
Bukkittu Sangappa	*Accd.*	*Applt.*
and		
Rex.	*Respondent.*	

The address of the appellant for service of all notices and processes is that of his advocates Messrs. P. Chandra Reddi and R. Ramalinga Reddi, Advocates' Association, High Court Buildings, Madras.

The abovenamed appellant begs to present this Memorandum of Criminal Appeal to this Honourable Court against the judgment of the Sessions Judge, Bellary, in S.C. No. 22 of 1937, dated the 22nd day of September 1937, for the following among other grounds:—

1. The conviction and sentence passed on the appellant is contrary to law and weight of evidence.

2. The lower Court erred in convicting the appellant under Section 302, I.P.C.

3. The lower Court ought to have held that the accused was not guilty of the offence of murder.

4. Having held that the confession was not properly recorded not having given the appellant sufficient time to recover from any influence whatsoever. the lower Court ought to have excluded the confession from consideration.

5. The lower Court ought not to have referred to the confession at all, having found that it was got under the influence of superstitious fears.

6. The lower Court ought to have seen that if the confession is ruled out, there is nothing to show that the accused murdered the deceased.

7. The lower Court having found that there were no sign of a rope having been used, ought to have held that no weight could be attached to such a confession.

8. The learned Sessions Judge failed to see that the appellant is not guilty of the offence of murder in any view of the matter.

10 9. In any event; having regard to the circumstances of the case, the sentence is very severe.

(Signed) P. CHANDRA REDDI

AND

(,,) R. RAMALINGA REDDI,

Advocates for Appellant.

(True copy)